

AO 106 (Rev. 04/10) Application for a Search Warrant

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## UNITED STATES DISTRICT COURT

for the

Western District of Washington

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

BY

In the Matter of the Search of

(Briefly describe the property to be searched  
or identify the person by name and address)A residence located at 1038 151st Avenue SE Bellevue, WA  
98007, more fully described in Attachment A and the Person  
of Antonio Smith

Case No. MJ17-532

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachments A-1 and A-2, which are incorporated herein by reference.

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B for a List of Items to be Seized.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC 922(g)	Felon in Possession of a Firearm/Ammunition

The application is based on these facts:

Please see Affidavit of Special Agent Gregory K. Heller, Bureau of Alcohol, Tobacco and Firearms (ATF)

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Gregory K. Heller, Special Agent (ATF)

Printed name and title

Sworn to before me and signed in my presence.

Date:

27 Dec 2017

City and state: Seattle, Washington

Judge's signature

James P. Donohue, Chief United States Magistrate Judge

Printed name and title

**AFFIDAVIT**

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

I, Gregory Heller, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION**

1. I, Gregory Heller, together with other agents of the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), am currently investigating ANTONIO P. SMITH for, among other things, firearms violations. SMITH is a convicted felon who is believed to be in possession of ammunition and at least one firearm. This application seeks permission to search SMITH's home, including the grounds and outbuildings; as well as his person, for firearms, ammunition, and the other items specified in Attachment B.

**AGENT BACKGROUND**

2. I am a special agent (SA) duly sworn and employed by ATF. I am currently assigned to the Seattle V ATF Field Office, located within the Seattle, Washington, Field Division. I have been employed as a special agent since September 2014. Prior to this employment, I was employed as a police officer and detective for Gwinnett County, Georgia, from 2007 to 2014. In total, I have approximately ten years of state and federal law enforcement experience.

3. I am a graduate of Duke University in Durham, North Carolina, where I received a Bachelor of Science in Engineering (B.S.E.) in Civil Engineering. I completed a twelve-week Criminal Investigator Training Program (CITP) and a fourteen-week Special Agent Basic Training (SABT) at the ATF National Academy/Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. I also completed a 23-week

1 Gwinnett County Police Training Academy and was a Peace Officer Standards and  
2 Training (P.O.S.T.) certified peace officer in the State of Georgia.

3 4. I am responsible for investigations involving specified unlawful activities,  
4 including violent crimes involving firearms, that occur in the Western District of  
5 Washington. I am also responsible for enforcing federal firearms and explosives laws  
6 and related statutes in the Western District of Washington. I received training on the  
7 proper investigative techniques for these violations, including the identification of  
8 firearms and location of the firearms' manufacture. I have actively participated in  
9 investigations of criminal activity, including but not limited to: crimes against persons,  
10 crimes against property, narcotics-related crimes, and crimes involving the possession,  
11 use, theft, or transfer of firearms. During these investigations, I have also participated in  
12 the execution of search warrants and the seizure of evidence indicating the commission of  
13 criminal violations. As a law enforcement officer, I have testified under oath, affirmed to  
14 applications of search and arrest warrants, and obtained electronic monitoring orders.

15 5. The facts in this affidavit and in the attached document are based on my  
16 training and experience, and information obtained from other agents, detectives, analysts,  
17 and witnesses. The information outlined below is provided for the limited purpose of  
18 establishing probable cause and does not contain all details or all facts of which I am  
19 aware that relate to this investigation.

20 **LOCATIONS TO BE SEARCHED**

21 6. This affidavit is submitted in support of an application to search the  
22 following property referred to as the "Subject Premises," and the person of SMITH, all as  
23 more fully described in Attachments A hereto, incorporated by reference. As set forth  
24 herein, there is probable cause to believe each location contains evidence of the  
25 aforementioned offenses. The evidence to be searched for and seized is more particularly  
26 described in Attachment B hereto, incorporated by this reference. Specifically, the places  
27 to be searched are: (1) the Subject Premises, *i.e.*, a single family residence located at  
28

1 1038 151st Avenue SE Bellevue, Washington, and its surrounding property, grounds, and  
2 outbuildings; and (2) the person of ANTONIO P. SMITH.

3 **STATEMENT OF PROBABLE CAUSE**

4 7. On December 22, 2017, employees of Wade's Eastside Guns, a retail gun  
5 store and Federal Firearms Licensee (FFL) in Bellevue, Washington, contacted ATF  
6 about a suspicious interaction with a customer that took place on December 21, 2017.  
7 ATF SA Oliver Mullins and I went to Wade's Eastside Guns to investigate.

8 8. I conducted separate interviews with two employees, E.M. and K.C. Based  
9 on these interviews, I learned that at about 12:30 p.m. on December 21, 2017, the suspect  
10 entered the store and spoke with K.C. He asked to purchase a part for a Glock pistol  
11 commonly called a "Glock switch" or "auto sear." He explained to K.C. that it was a part  
12 that would replace the back plate on the Glock and allow for automatic fire. K.C. told the  
13 suspect that what he was asking for was illegal and would result in a prison sentence. (As  
14 an ATF agent I am aware of the existence of such items. I also know that they are  
15 classified as machineguns and cannot be sold, transferred, or possessed if they were  
16 manufactured after 1986. I am also aware that there have been instances of illegal  
17 manufacturing and trafficking of such devices.)

18 9. After asking about the Glock switch, the suspect asked about purchasing an  
19 adapter to mount a silencer to a CZ Evo Scorpion, which I know likely refers to a  
20 9x19mm pistol or carbine manufactured by Ceska Zbrojovka. The suspect told E.M. and  
21 K.C. that he had an "Otoscope" silencer and needed to mount it to the barrel of the  
22 firearm. At the time, E.M. and K.C. did not understand what the suspect meant by  
23 "otoscope" and attempted to find the adapter the suspect wanted but were unable to do so.  
24 (I have learned that an otoscope is a tool used by physicians to examine a patient's eyes,  
25 ears, nose etc. They are typically made out of a metal cylindrical handle with threaded  
26 ends to attach the viewing portion of the tool. They also typically come with funnel  
27 shaped attachments.)  
28

1        10.        When the clerks could not find the part the suspect wanted, he purchased  
2 one box of Fiocchi 9x19mm ammunition. During the purchase, the suspect asked the  
3 clerks if they had ever “boiled ammunition in neoprene oil.” They were confused by this  
4 comment and were not aware of any such practice. The suspect then left the store. K.C.  
5 handled the sale and indicated that the suspect paid with a credit card.

6        11.        At approximately, 2:30 p.m. the same suspect returned to the store wearing  
7 a different outfit. He approached E.M., opened a black case, and showed E.M. an  
8 otoscope with a silver colored cylindrical handle. Also in the case was a roll of cash. The  
9 suspect told E.M. that this was the device he wanted to mount to his firearm. E.M. asked  
10 the suspect if he had a tax stamp for the device (as would be required under federal law if  
11 it was modified into a silencer.) The suspect said he did not. At that point, E.M. told the  
12 suspect that what he was asking for was illegal and ordered him to leave the store. The  
13 suspect left, but as he was leaving yelled at E.M. something to the effect of, “do you even  
14 know how to operate machinery.” E.M. said he did not inspect the otoscope and was not  
15 sure what, if any, modifications had already been made.

16        12.        E.M. and other employees showed me high resolution surveillance video  
17 from multiple angles that covered both times the suspect entered the store. I saw that on  
18 both occasions the suspect approached the store on foot and did not park a car in the  
19 parking lot. I also saw that the video appeared to match what had been told to me by  
20 E.M. and K.C. I saw the ammunition transaction at the register with K.C. and the  
21 interaction with E.M. in which the suspect displayed the otoscope. From the video, I  
22 could see the suspect pick up the silver colored metal cylinder and unscrew one end. I  
23 could not zoom the video in enough to see if the device had already been modified.

24        13.        E.M. gave me photographs of the two receipts that had been generated from  
25 the suspect’s ammunition purchase. I saw the purchase was for one box of Fiocchi 9mm  
26 115 grain FMJ ammunition. The total was \$16.49 and it was paid for with a Visa debit  
27 card in the name of “Antonio P. Smith.” The signature also read, “Antonio Smith.”  
28

1        14.        Other ATF personnel and I researched the name Antonio P. Smith in the  
2 Washington Department of Licensing (DOL) system and located Antonio Paris SMITH  
3 who had ID card addresses connected to Kenmore and Bellevue. I obtained a copy of  
4 SMITH's Department of Licensing photograph. Other agents and I compared it to the  
5 high quality surveillance video and all believed SMITH was the suspect in the video.

6        15.        I have since examined SMITH's National Crime Information Center  
7 (NCIC) criminal history report. I saw that on February 26, 2003, SMITH was convicted  
8 of the felony crime of Burglary in the Second Degree in King County Superior Court. As  
9 such, SMITH is prohibited from possession of firearms and ammunition.

10       16.        I have consulted with SA David Roberts, who has additional training  
11 related to determining the origin of firearms and ammunition. I gave him the information  
12 about the Fiocchi ammunition, and he was able to determine that it was not manufactured  
13 in the State of Washington. I also contacted clerk E.M. and asked about Wade's Eastside  
14 Guns' method of purchasing Fiocchi ammunition. E.M checked records and determined  
15 that their Fiocchi ammunition is shipped to them from Ozark, Missouri by a third party  
16 distributor. Based on the above information, I believe the ammunition in question has  
17 traveled in and affected interstate commerce.

18       17.        Agents checked the address listed on SMITH's Washington identification  
19 card. The residence at that address had been torn down, and it was an empty lot. Agents  
20 checked the other mailing address associated with SMITH's identification card. Agents  
21 saw that address was a non-residential mental health clinic.

22       18.        I located two Bellevue police reports related to SMITH being contacted at  
23 1038 151<sup>st</sup> Avenue SE in Bellevue, Washington, *i.e.*, the Subject Premises, which the  
24 reports indicated was a residence owned and operated by Sound Mental Health. Both  
25 Bellevue police reports were related to SMITH being brought to a mental health facility  
26 for observation because of behavior that caused SMITH's roommate to feel concerned.

27       19.        On December 26, 2017 agents watched the 1038 151st Avenue SE  
28 residence for approximately six hours in order to try to confirm that SMITH was still



1 living there. SMITH was not seen, but other individuals were seen coming and going,  
2 and based on lights on inside and smoke/steam coming from a chimney, the house was  
3 clearly occupied.

4 20. On December 27, 2017, I contacted and spoke with Laura Dodd, SMITH's  
5 aunt. Dodd explained that she acted as a guardian of sorts for SMITH. She said she  
6 handled his finances and regularly contacted him by phone to check on him. Dodd said  
7 SMITH has had a long term obsession with firearms and has always wanted to own one.  
8 She said he has previously been upset when told he could not have a firearm.

9 21. Dodd said she knew that SMITH was still living at 1038 151st Avenue SE  
10 in Bellevue, WA because she paid the rent for him to live there. She said she was current  
11 on the rent and SMITH had not moved out. She said she also frequently spoke to SMITH  
12 on the house phone at that residence. She said counselors from Sound Mental Health  
13 regularly check in with SMITH and would have told her if he had moved out or if his  
14 status had changed.

15 22. Dodd said SMITH did not own a car or have any other property or storage  
16 units. She said she would know if he had purchased any of those items because she  
17 controls his finances. Dodd said anything SMITH owned or had purchased would be  
18 stored in his room at his residence. (SMITH explained that the residence operated similar  
19 to a halfway house in that each tenant had a bedroom, but the living spaces were shared.  
20 She said the house had not been subdivided into apartments.)

21 23. I anticipate searching the bedroom belonging to SMITH, along with any  
22 common areas in and outside the house.

23 **CONCLUSION**

24 24. Based on the above facts, I respectfully believe there is probable cause that  
25 SMITH, a person prohibited from possession of firearms and ammunition based on his  
26 criminal history (and although all documentation has not yet been obtained, is possibly  
27 also prohibited based on his mental health history) purchased ammunition that traveled in  
28 interstate commerce and is storing such ammunition inside his residence.

SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of December, 2017.

UNITED STATES ATTORNEY  
700 STEWART STREET, SUITE 5220  
SEATTLE, WASHINGTON 981012  
(206) 553-7970



**ATTACHMENT A-1**

The Subject Premises is located at 1038 151st Avenue SE Bellevue, Washington 98007. It is a light gray single family residence with white trim. It has an attached garage to the left of the front door. There is a mailbox emblazoned with 1038 is immediately to the right of the driveway. 1038 is also emblazoned on a post near the garage.

**ATTACHMENT A-2**

The person to be searched is Antonio Paris SMITH, who has a date of birth of a date in May 1987.

**ATTACHMENT B**

All documents and items reflecting evidence and/or fruits of the commission of the crime of felon in possession of a firearm/ammunition, in violation of Title 18, United States Code, Section 922(g), *i.e.*, the following documents:

1. Any firearms, ammunition, and firearms accessories, including, but not limited to gun cases, gun safes, packaging, and magazines.
2. Silencers, silencer parts, or evidence of silencer manufacture or attempted manufacture
3. Any documents reflecting the sale or acquisition of any firearms or ammunition, including, but not limited to, any photographs of firearms or of persons in possession of firearms, and receipts for the purchase or disposition and/or repair of any firearms.
4. Any records containing information that indicates the types, amounts, and prices of firearms/ammunition purchases.
5. Business cards relating to firearms, firearms accessories, or ammunition.
6. Documents sufficient to show dominion and control of the premises and areas searched.

**THIS WARRANT DOES NOT AUTHORIZE THE SEIZURE OR SEARCH OF ANY DIGITAL DEVICES.**